

## Senate Bill No. 394

### CHAPTER 343

An act to amend and repeal Section 65004 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 24, 2001. Filed  
with Secretary of State September 25, 2001.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 394, Sher. Internet Tax Freedom Act: continuation.

The California Internet Tax Freedom Act prohibits, with specified exceptions, the imposition, assessment, or attempt to collect (1) a tax on Internet access, Online Computer Services, or the use of the Internet or Online Computer Services, (2) a bit or bandwidth tax, or (3) any discriminatory tax on Online Computer Services or Internet access. This act provides that it is to become inoperative on January 1, 2002.

This bill instead would, on the basis of whether certain conditions are met, provide that the act shall remain in effect only until January 1 of either 2003 or 2004, and as of the applicable date is repealed.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65004 of the Revenue and Taxation Code is amended to read:

65004. (a) Except as provided in subdivision (b), no city, county, or city and county may impose, assess, or attempt to collect any of the following:

(1) A tax on Internet access, Online Computer Services, or the use of Internet access or any Online Computer Services.

(2) A bit tax or bandwidth tax.

(3) Any discriminatory tax on Online Computer Services or Internet access.

(b) The prohibition in subdivision (a) against the imposition of taxes shall not apply to any new or existing tax of general application, including, but not limited to, any sales and use tax, business license tax, or utility user tax that is imposed or assessed in a uniform and nondiscriminatory manner without regard to whether the activities or transactions taxed are conducted through the use of the Internet, Internet access, or Online Computer Services.

(c) A cable television franchise fee may not be imposed on Online Computer Services or Internet access delivered over a cable television

system if the Federal Communications Commission, by issuing a final order, or a court of competent jurisdiction, by rendering a judgment enforceable in California, finds that those are not cable services as defined in Section 522(6) of Title 47 of the United States Code and are, therefore, not subject to a franchise fee. However, if that final order or judgment is overturned or modified by further administrative, legislative, or judicial action, that action shall control. The operation of this subdivision may be suspended by a contract between a cable television franchising authority and a cable television operator.

(d) This part shall remain in effect only until January 1, 2004, and as of that date is repealed, provided that the interim report required by Section 38066 is submitted to the Governor and the Legislature on or before December 1, 2002. If the interim report required by Section 38066 is not submitted to the Governor and the Legislature on or before December 1, 2002, this part shall remain in effect only until January 1, 2003, and as of that date is repealed.

